

CUSTOMS BULLETIN with appropriate deletion of information exempt from disclosure under part 103 of this chapter. For purposes of this section, a proceeding commences with the issuance of a prepenalty notice or, if no prepenalty notice is issued, with the issuance of a notice of a claim for a monetary penalty.

[T.D. 79–160, 44 FR 31962, June 4, 1979]

**§ 171.32 Limitation on time decision effective.**

A decision to mitigate a penalty or to remit a forfeiture upon condition that a stated amount is paid shall be effective for not more than 60 days from the date of notice to the petitioner of such decision, unless the decision itself prescribes a different effective period or the decision is later amended to change the effective period. If payment of the stated amount is not made, or arrangements made for delayed payment or installment payments, or a supplemental petition filed, within the effective period, the full penalty or claim of forfeiture shall be deemed applicable and shall be enforced by promptly referring the matter, after required collection action, if appropriate, to the U.S. attorney unless other action has been directed by the Commissioner of Customs.

[T.D. 70–249, 35 FR 18265, Dec. 1, 1970, as amended by T.D. 79–160, 44 FR 31962, June 4, 1979]

**§ 171.33 Supplemental petitions for relief.**

(a) *Time and place of filing.* If the petitioner is not satisfied with a decision of the Fines, Penalties, and Forfeitures Officer or the Commissioner of Customs, a supplemental petition may be filed with the Fines, Penalties, and Forfeitures Officer. Such a petition shall be filed either:

(1) Within 30 days from the date of notice to the petitioner of the decision from which further relief is requested if no effective period is prescribed in the decision; or

(2) Within the time prescribed in the decision from which further relief is requested as the effective period of the decision.

(b) *Consideration*—(1) *Decisions of the Fines, Penalties, and Forfeitures Officer.*

Except in cases when liability is incurred under the provisions of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592) in an amount that exceeds \$25,000, where a supplemental petition requests further relief from a decision of the Fines, Penalties, and Forfeitures Officer, the Fines, Penalties, and Forfeitures Officer may grant additional relief, if he believes it is warranted, in cases in which he has the authority to grant relief in accordance with the provisions of §§ 171.21 and 171.22. If the Fines, Penalties, and Forfeitures Officer believes no additional relief is warranted, or if the petitioner is not satisfied with the additional relief granted by the Fines, Penalties, and Forfeitures Officer, or if there has been a specific request by the petitioner for review by a higher level official, the supplemental petition, together with all pertinent documents, shall be forwarded to the designated higher level official or if the liability was incurred under 19 U.S.C. 1592, for an amount that exceeded \$25,000, to the Commissioner of Customs.

(2) *Decisions of the Commissioner of Customs.* A supplemental petition appealing a decision of the Commissioner of Customs shall be filed, together with all pertinent documents, with the Fines, Penalties, and Forfeitures Officer who initiated the case for transmittal to the Commissioner of Customs for reconsideration.

(c) *Second supplemental petition.* (1) Only one further supplemental petition may be filed appealing a decision made with respect to an initial supplemental petition. The second supplemental petition will not be accepted unless accompanied or preceded by full payment of all penalties and withheld duties determined to be due in the decision rendered on the first supplemental petition. Such payment must be made within 60 days from the date of notice to the petitioner of the decision on the first supplemental petition if no effective period is prescribed in the decision, or within such time prescribed, if any. The second supplemental petition should be filed with the Fines, Penalties, and Forfeitures Officer who initiated the case. For the purpose of this section, the term “second supplemental petition” shall include an offer

in compromise under 19 U.S.C. 1617 made prior to the commencement of a civil action to enforce the penalty claim.

(2) A second supplemental petition will not be considered except in one of the following circumstances:

(i) If it is filed within 2 years from the date of notice to the petitioner of the decision on the first supplemental petition;

(ii) If it is filed within 30 days following an administrative or judicial decision with respect to the entries involved in the penalty case which reduces the loss of duties upon which the mitigated penalty amount was based; or

(iii) If the deciding official in his discretion determines that the acceptance of a second supplemental petition is warranted.

(d) *Appeals to the Secretary of the Treasury.* A petitioner filing a supplemental petition pursuant to this section from a decision of the Commissioner of Customs with respect to any liability assessed under 19 U.S.C. 1592 may request that the petition be accepted as an appeal to the Secretary of the Treasury. The Secretary will accept for decision any such supplemental petition when in his discretion he determines that such petition raises a question of fact, law or policy of such importance as to require a decision by the Secretary. If the Secretary declines to accept an appeal for decision, the petitioner will be so informed; in such a case, if the supplemental petition is an initial supplemental petition or a second supplemental petition eligible for consideration under paragraph (c) of this section, a decision thereon will be issued by Customs.

[T.D. 70-249, 35 FR 18265, Dec. 1, 1970, as amended by T.D. 75-36, 40 FR 5146, Feb. 4, 1975; T.D. 84-18, 49 FR 1680, Jan. 13, 1984; T.D. 85-195, 50 FR 50291, Dec. 10, 1985; T.D. 91-71, 56 FR 40780, Aug. 16, 1991; 56 FR 48823, Sept. 26, 1991; T.D. 99-27, 64 FR 13676, Mar. 22, 1999]

## Subpart E—Restoration of Proceeds of Sale

### § 171.41 Application of provisions for petitions for relief.

The general provisions of Subpart B of this part on filing and content of petitions for relief apply to petitions for restoration of proceeds of sale except insofar as modified by this subpart.

### § 171.42 Time limit for filing petition for restoration.

A petition for the restoration of proceeds of sale under section 613, Tariff Act of 1930, as amended (19 U.S.C. 1613), shall be filed within 3 months after the date of the sale.

### § 171.43 Evidence required.

In addition to such other evidence as may be required under the provisions of subpart B of this part, the petition for restoration of proceeds of sale under section 613, Tariff Act of 1930, as amended (19 U.S.C. 1613), shall show the interest of the petitioner in the property, supported in appropriate cases by bills of sale, contracts, mortgages, or other satisfactory documentary evidence. The petition shall be supported by satisfactory proof that the petitioner did not know of the seizure prior to the declaration or decree of forfeiture and was in such circumstances as prevented him from knowing of it.

### § 171.44 Forfeited property authorized for official use.

If forfeited property the subject of a claim under section 613, Tariff Act of 1930, as amended (19 U.S.C. 1613), has been authorized for official use, retention or delivery shall be regarded as the sale thereof for the purposes of section 613. The appropriation available to the receiving agency for the purchase, hire, operation, maintenance, and repair of property of the kind so received is available for the granting of relief to the claimant and for the satisfaction of